

MINUTES

WARRICK COUNTY AREA BOARD OF ZONING APPEALS

Regular meeting held in the Commissioners Meeting Room,
Third Floor, Historic Courthouse,
Boonville, Indiana
January 23, 2017 at 6:00 P.M.

PLEDGE OF ALLEGIANCE A moment of silence was held followed by the Pledge of Allegiance.

MEMBERS PRESENT: Tina Baxter, Terry Dayvolt, Doris Horn, Mike Moesner, Jeff Valiant, Jeff Willis and Mike Winge.

Also present were Aaron Doll, Attorney, Sherri Rector, Executive Director, and Molly Barnhill, staff.

MEMBERS ABSENT: none

Roll call was taken and a quorum declared present.

ELECTION OF OFFICERS:

Mrs. Rector stated the first order of business is to elect a Chairman of the Warrick County Board of Zoning Appeals to serve during 2017. She asked if they had any nominations.

Mike Winge made a motion to nominate Jeff Valiant to serve as Chairman. The motion was seconded by Doris Horn.

Jeff Willis made a motion to close nominations and elect Jeff Valiant as Chairman by acclamation. Mike Moesner seconded the motion.

Jeff Valiant stated the next order of business is to elect a Vice-Chairman of the Warrick County Board of Zoning Appeals to serve during 2017. He asked if they had any nominations.

Mike Winge made a motion to nominate Terry Dayvolt to serve as Vice-Chairman. The motion was seconded by Mike Moesner.

Mike Moesner made a motion to close nominations and elect Terry Dayvolt as Vice-Chairman by acclamation. Mike Winge seconded the motion.

SET MEETING DATES, TIME, AND PLACE:

Mike Winge made a motion that the meetings to be held on the 4th Monday at 6:00 PM of each month in Commissioners Meeting Room, Third Floor, Court House, Boonville, Indiana; except for December (will be December 18, 2017, 3rd Monday) due to the holidays. The motion was seconded by Doris Horn and unanimously carried.

ADOPTION OF RULES AND REGULATIONS:

Mrs. Rector stated they want to go ahead and adopt the current rules and regulations for 2017 but she will be going over them with Attorney Doll and will probably be making some changes.

Doris Horn made a motion to adopt the Rules of Procedures for 2017. The motion was seconded by Mike Winge and unanimously carried.

MINUTES: Doris Horn made a motion to approve the Minutes of the last regular meeting held December 19, 2016. The motion was seconded by Mike Winge and unanimously carried.

SPECIAL USE:

BZA-SU-16-20

APPLICANT: Pampered Pet Nanny LLC, by Megan Anderson, Mbr.

OWNER: Steven & Megan Anderson

PREMISES AFFECTED: Property located on the E side of Libbert RD. approximately 0' NE of the intersection formed by Libbert Rd. & Vann Rd., Ohio Twp. *(complete legal on file) 3488 Libbert Rd.*

NATURE OF CASE: Applicant requests a Special Use (SU 24) from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an addition to an existing dog boarding facility approved in BZA-SU-11-20 on 9/26/11. Addition is for an additional 5 dogs to make facility hold 17 dogs in an "A" Agriculture zoning district. *Advertised in the Standard November 17, 2016. Continued from December BZA meeting.*

Megan Anderson was present.

The Chairman called for a motion.

Mrs. Rector stated we do have all return receipts from certified mail except for Jesse and Katie Martin but we do have the white pay receipt that was dated December 20th. She said the existing land use is residence and kennel. She said the property to the north, east and west is zoned Agriculture; property to the south is zoned Agriculture, R-1A and C-4. She said there is no flood plain on the property. She said they have an existing driveway off of Libbert Road. She said a special use was approved for a kennel on this property on September 26, 2011 for previous owner for up to twelve dogs. She said Mrs. Anderson wants to add on to the kennel in order to house 17 dogs and she also does grooming. She said she sent a request in on Feb. 22, 2016 asking if she could groom dogs that weren't being boarded at the facility and this Board ruled that she could do that as long as there were no retail sales. Mrs. Rector stated we have two letters/emails of remonstrance that each one of you have in your packet. She said she could read them if they want.

Mrs. Rector said she has submitted her proposed use statement which states she “bought the existing property Pampered Pet Nanny at 3488 Libbert Road which offers boarding, daycare, and grooming. Would like to do an additional 5 rooms or stalls to accommodate 17 dogs total.” She said that is also in your packets.

Mike Winge said he would like a minute to read the letters of remonstrance.

Doris Horn said it says in here in one of the letters they did not want to make waves so they didn’t talk to the neighbors about the addition of the noise or anything.

Megan Anderson said she did not speak to any of the neighbors.

Doris Horn asked if they had ever complained before about her dogs that she had outside.

Megan Anderson said no they have never had any calls into Animal Control or anything like that. She said the previous owner did state that whenever she applied for the Special Use permit that the one neighbor on Vann Road, she is the same one that sent in the email, that she didn’t approve. She said the previous owner thought it was more of a personal thing. She said she doesn’t know if they realize it has changed ownership.

Jeff Valiant asked how long had she been there.

Megan Anderson said two years.

Mike Moesner asked if there were things that she could do that would cause less barking. He said he loves dogs and has a bunch himself.

Megan Anderson said they are dogs and are going to bark some but they are out there with them supervising them during their playtime and if they do bark they redirect them; they don’t let them stand out there and bark. She said that is something that they strive to do to keep the noise down and to make sure they are out there with them and if they are barking for whatever reason they can control it before it gets out of hand.

Mrs. Rector said so she does not just let 12 dogs run loose outside.

Megan Anderson said no.

Mike Winge asked on the kennel itself; is that completely enclosed and insulated walls, ceilings, and doors?

Megan Anderson said yes.

Mike Winge asked what time are they in there.

Megan Anderson said we do daycare so the daycare dogs come around 7:30 and they are there until about 4:30 or 5:00pm. She said the boarding dogs will stay all night.

Mike Winge asked how many boarding dogs does she usually have.

Megan Anderson said generally they will have 5-10 boarders.

Mike Moesner asked how many daycare dogs does she have.

Megan Anderson said they have 4 or 5 daycare dogs but she has had a lot of calls from people interested in doggy daycare so that is why she wants to do the addition so they can take on more business. She said it is becoming increasingly popular so they want to be able to accommodate more but they still want to stay small just because her clients value that. She said some other facilities can house 100 dogs and her clients like that they are small because they don't want their dogs running with 100 other dogs. She said they want to stay small so this is probably the maximum that we will ever do just because her clients, like she said, they value that and that's why they come to them.

Mike Moesner said so if you boarded 17 dogs and you have 5-6 dogs in daycare that puts you over.

Megan Anderson said we wouldn't be able to accept the daycare dogs. She said if they were completely full with boarders and normally they aren't then she wouldn't be able to accept the dogs.

Jeff Valiant said so boarders and daycare you are not going to get over 17.

Megan Anderson said yes.

Mrs. Rector said total.

Megan Anderson said yes.

Mike Winge asked if the reason she bought this place was because of the kennel in it was already set up.

Megan Anderson said yes she worked for the previous owner for about a year and then she decided to move on and sell so her husband and her bought it.

Mike Winge asked why did she not consider something out in the country if she was going to get into this.

Megan Anderson said financial reasons. She said they saw it as a good opportunity. She said their house is on the property as well and she liked that set up to where she is there if anything does happen. She said if she had something out in the country it'd be a little harder, she'd have to have staff probably 24/7 to make sure that everything is going okay.

Mike Winge said his concern with this right now if he remembers the last one when she came up here that was going to be a limit for her and now we have a new owner and a new limit and this thing gets bigger and bigger. He said he is concerned with that. He said for the sake of the people around there that is getting to be a lot of dogs in one spot.

Tina Baxter said that is close to homes.

Mike Winge said I noticed one that is like 50 feet and her daughter studies in the evenings and she is complaining about the barking and the noise.

Tina Baxter said it's at night time too we are having some issues with barking late at night they said.

Mike Winge said he is concerned and he is all pro-business period but this doesn't seem to have a cap on it if we just somebody just keeps coming back and we keep adding more to it.

Megan Anderson said she is in it for the long haul and she doesn't foresee giving this up anytime soon.

Mike Winge said his concern is if you anticipated this when you get into business you look at it and anticipate it it would make more sense if you wanted to grow like that if you were on the outskirts of town but if you are close to town sometimes it doesn't.

Jeff Valiant said he will play devils advocate on that; his neighbor has one dog and that one dog barks just as much as 17.

Megan Anderson said she never has complained but the neighbors that sent in the letter they also have dogs, she doesn't know if they specified that but they bark just as much. She said it is not because their dogs got them started, she hears them quite a bit and the house up on hill the same thing. She said unfortunately in neighborhoods it is going to happen and anywhere else but like she said they try to control it.

Mike Winge asked Mrs. Rector if this was approved could they put a cap on this piece of property where it doesn't keep coming back.

Mrs. Rector said yes, you could say it will not be expanded in any way in the future and make that a condition.

Jeff Willis said could they come back before the Board and ask for that again though.

Mrs. Rector said everybody has a choice; you can always ask.

Jeff Willis said they are going to build Meier or whatever the grocery store is across the street and the rest of that is going to fill in with commercial so ten years from now there will be a couple houses there but probably not very many.

Mrs. Rector said yea it is not like she has 50 homes around her. She said across the street is commercial.

The Chairman called for any remonstrators for or against this project; there were none.

Mrs. Rector said the last time and because it is part of record and not because she is trying to sway their vote in any way it was an issue last time that the neighbor had several dogs that were...that was on the original approval. She said there were dogs everywhere; it wasn't just at this piece of property. She said that is part of the record in the minutes and what was taken into consideration at the time. She asked if the new addition was enclosed also.

Megan Anderson said yes.

Mike Winge said and these are insulated, windows, doors, all that type to keep the noise down.

Megan Anderson said yes.

Mrs. Rector said you might take like 5 dogs out and let them play, go potty, whatever and then bring them in.

Megan Anderson said yes, with them beings dogs we separated them by size and personality as far as play groups so there will never be 12 dogs all out at the same time. She said there are separated groups that go out and then they let them back in. She said they do have an indoor playroom that if the weather is inclement they can come in and play inside and that is how they kind of control that barking too if they see they are out there playing and barking and all of that they will get them inside and shut the doors and that kind of controls the noise level.

Mike Moesner asked what recourse would they have if there was a dog that was barking constantly and they couldn't control it; is there any recourse that they would have.

Mrs. Rector said well it could be a public nuisance couldn't it.

Everybody started talking at once.

Mrs. Rector said nuisance complaint. She said our office has never had a complaint against this facility, no phone calls, nothing that she is aware of.

The Chairman asked for questions from the Board. Seeing none he called for a motion.

I, Mike Winge, make a motion finding of fact be made as follows from the testimony and proposed use statement:

1. The USE is deemed essential or desirable to the public convenience or welfare.
2. The USE is in harmony with the various elements or objectives of the Land Use Plan for Warrick County.

3. The USE will not be a nuisance or serious hazard to vehicles, pedestrians, or residents.
4. The USE as developed will not adversely affect the surrounding area.
5. Adequate and appropriate facilities will be provided for proper operation of the USE.
6. The specific site is appropriate for the USE.

And the Application be approved in accordance to the application and plans on file, subject to the following conditions:

Mike Winge stated he will not put any additional conditions on it because of the commercial and everything else that's going on there.

1. Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
2. Subject to all public utility easements and facilities in place.
3. Subject to an Improvement Location Permit being obtained for the addition
4. Subject to the Special Use not being altered to become any other use nor expanded than that which was approved by the Board of Zoning Appeals.
5. Subject to any required Building permits being obtained.
6. Subject to no retail sales.
7. No person or persons may be employed in the SU 24 at site other than the resident (residents) of the site for which the SU 24 has been granted.

The motion was seconded by Doris Horn and unanimously carried.

Mrs. Rector stated she could pick up her approval on Wednesday.

BZA-SU-17-01

APPLICANT: Custom Sign & Engineering, Inc. by Debra Mounts, Sales Rep.

OWNER: Evansville Teachers Federal Credit Union by Brent Joice, VP of Marketing.

PREMISES AFFECTED: Property located on the E side of SR 261 approximately 250' N of the intersection formed by SR 261 & SR 66, Ohio Twp. 3944 SR 261. *Complete legal on file.*

NATURE OF CASE: Applicant requests a Special Use (SU 8) from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an electronic message board to be located on an existing sign in a "C-3" Highway Commercial zoning District. *Advertised in The Standard January 12, 2017.*

Debra Mounts, Custom Sign and Engineering and Brent Joyce, Evansville Federal Credit Union were present.

The Chairman called for a staff report.

Mrs. Rector said we do have all of the return receipts from certified mail to the adjacent property owners. She said they were mailed out one day late, however it was a holiday but they did have to get a waiver of notice from Alisha Rupert with CAMM Ventures, which she did so the notices are in order. She said the existing land use is Evansville Teachers Federal Credit Union. She said the surrounding zoning is all “C-3” Highway Commercial and “C-4” General Commercial with various businesses. She said their access is off of 261. She said they have a picture of the proposed sign and location and also the proposed use statement which says “to remove existing sign head and spanner sign from pole structure and add to new style ID sign and electronic message unit. This is to make the structure conform to the recent update they have done at their other current banking centers.”

The Chairman asked for questions from the Board.

Doris Horn said it was too bad this sign won’t make it easier to get into in the Teachers Federal Credit Union.

Mrs. Rector said you can get in you just can’t get out.

Doris Horn said well either way and a lot of times you actually can’t see it because of the signs.

Brent Joyce stated the entrance and exit is an issue that they are well aware of.

The Chairman called for remonstrators for or against the project. Seeing none and being no questions from the Board he called for a motion.

I, Mike Winge, make a motion finding of fact be made as follows from the testimony and proposed use statement:

7. The USE is deemed essential or desirable to the public convenience or welfare.
8. The USE is in harmony with the various elements or objectives of the Land Use Plan for Warrick County.
9. The USE will not be a nuisance or serious hazard to vehicles, pedestrians, or residents.
10. The USE as developed will not adversely affect the surrounding area.
11. Adequate and appropriate facilities will be provided for proper operation of the USE.

12. The specific site is appropriate for the USE.

And the Application be approved in accordance to the application and plans on file, subject to the following conditions:

1. Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
2. Subject to all public utility easements and facilities in place.
3. Subject to an Improvement Location Permit being obtained for the new message board.
4. Subject to any required Building Permits being obtained.
5. Subject to the Special Use not being altered to become any other use nor expanded than that which was approved by the Board of Zoning Appeals.
6. Subject to no use of the words, 'stop', 'danger', 'look', or any other word which would confuse traffic.
7. Subject to no revolving beams of light or strobe lights.

The motion was seconded by Doris Horn and unanimously carried.

Mrs. Rector stated they could pick up their approval on Wednesday.

ATTORNEY BUSINESS: None

EXECUTIVE DIRECTOR BUSINESS: None.

Being no other business, the meeting adjourned at 6:25 p.m.

Jeff Valiant, Chairman

ATTEST:

The undersigned Secretary of the Warrick County Board of Zoning Appeals does hereby certify the above and foregoing is a full and complete record of the Minutes of the said Board at their monthly meeting held January 23, 2017.

Sherri Rector, Executive Director